

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE
October 6, 2006 Session

STATE OF TENNESSEE v. PAUL DENNIS REID, JR.

**Automatic Appeal from the Court of Criminal Appeals
Criminal Court for Davidson County
No. 97-C-1836 Cheryl Blackburn, Judge**

No. M2003-00539-SC-DDT-DD - Filed on December 27, 2006

ADOLPHO A. BIRCH, JR. SP. J., concurring and dissenting.

I concur in the conclusion of the majority that Reid's convictions should be affirmed. As to the sentences of death, however, I respectfully dissent. I continue to adhere to my view, expressed many times before, that the comparative proportionality review protocol currently embraced by the majority is inadequate to shield defendants from the arbitrary and disproportionate imposition of the death penalty. See State v. Reid, 164 S.W.3d 286, 323-325 (Tenn. 2005)(Birch, J., concurring and dissenting), and cases cited therein. Accordingly, I respectfully dissent from that portion of the majority opinion affirming the imposition of the death penalty in this case.

Aside from the above, I would urge the Executive to follow the lead of California and Florida, whose Governors have suspended executions by lethal chemical until in-depth investigations can be conducted into the propriety of using a certain chemical as a killing agent. I am led to believe that Tennessee includes the same lethal chemical(s) in its protocol as do California and Florida.

ADOLPHO A. BIRCH, JR., SPECIAL JUSTICE